

In accordance with 28 U.S.C. § 636(b)(1) and Rule 72 of the Federal Rules of Civil Procedure, the court makes a de novo determination of those portions of the proposed findings or recommendations to which specific objection is made. United States v. Raddatz, 447 U.S. 667 (1980). The court is not addressing any nonspecific objections or any frivolous or conclusory objections. Battle v. United States Parole Comm'n, 834 F.2d 419, 421 (5th Cir. 1987).

After careful review of petitioner's response, the court concludes that petitioner does not make any specific objections. Rather, petitioner merely states that he did know that he needed permission from the Fifth Circuit to file a successive petition for habeas corpus relief under 28 U.S.C. § 2254. See Pet'r's Resp. at 1, ¶ 2. He further requests the court, in lieu of dismissal, to stay this action and grant him leave to file a motion with the Fifth Circuit seeking permission to file a successive petition. Id. at 2, ¶¶ 3-4. Petitioner cites to no legal authority in support of this request and the court is otherwise unaware of any. Leave from this court to file such a motion is not required. Indeed, the court concurs with the magistrate judge that, without leave from the Fifth Circuit to file a successive petition, this court is without jurisdiction

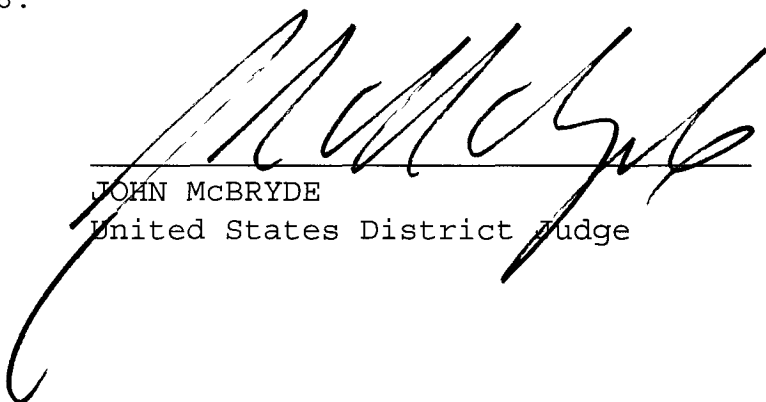
over this matter. See, e.g., 28 U.S.C. § 2244(b)(3)(A); Felker v. Turpin, 518 U.S. 651, 664 (1996).

Therefore,

The court accepts the findings, conclusions and recommendation of the magistrate judge and ORDERS that the petition in this action be, and is hereby, dismissed without prejudice.

The court further ORDERS that petitioner's motion for leave to proceed in forma pauperis, motion for evidentiary hearing, motion for appointment of counsel, and motion for production of documents be, and are hereby, denied as moot.

SIGNED March 15, 2006.



JOHN McBRYDE
United States District Judge